

130045

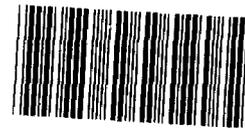
UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

FOR RELEASE ON DELIVERY
EXPECTED AT 10:00 A.M.
THURSDAY
June 5, 1986

STATEMENT OF
MILTON J. SOCOLAR, SPECIAL ASSISTANT TO
THE COMPTROLLER GENERAL OF THE UNITED STATES

before the
Legislation and National Security Subcommittee
Committee on Government Operations
House of Representatives

on
Department of the Army
Procurement of Beretta's 9-mm. Semiautomatic Pistol
as the
Standard Military Sidearm



130045

035610 - 130045

Mr. Chairman and members of the Committee:

I am pleased to be here today to discuss the results of our investigation of the Army's purchase of 9-mm. pistols from Beretta U.S.A. Corp., a subsidiary of the Italian firm Beretta.

The April 1985 Beretta contract culminated a lengthy, 7-year process requiring three iterations of testing. The delays occurred despite the interest of high level officials. Problems in selecting a 9-mm. handgun can be attributed to the following two factors:

--conflicting goals and priorities of the military services, especially of the Air Force and the Army, further complicated by contradictory guidance from authorization and appropriation committees of the Congress;

--evaluating candidates against rigid military specifications. For example, there were more than 50 mandatory requirements, many of which were inappropriate for what was essentially an "off-the-shelf" procurement.

In summary, the 9-mm. program was not a shining example of how to run an effective procurement and certainly not the way to buy an "off the shelf" item.

A number of allegations have been made by disappointed firms about this procurement. Those allegations reflect a perception that the Army was biased in selecting Beretta and unfairly eliminated other competitors. While we cannot say that the Army deliberately exhibited any bias toward Beretta, we have

concluded that one competitor, Smith & Wesson, was unfairly eliminated from the competition.

Interest in the 9-mm. handgun started in 1978 with informal Air Force testing of 9-mm. pistols. About the same time, the House Appropriations Committee issued a study recommending a reduction in the proliferation of different types of handguns and ammunition in the Department of Defense inventory. DOD concluded 2 years later that handgun standardization using 9-mm. ammunition was feasible. At first, DOD planned to rely on the results of Air Force testing, which concluded that Beretta was by far the superior weapon tested. The Army, however, opposed awarding a sole-source contract to Beretta on grounds that the Air Force testing was not scientific.

Since 1980, the Army has conducted two additional extensive rounds of testing on 9-mm. pistols. In tests conducted in 1981 and 1984, the performance of candidate pistols was evaluated on the basis of specifications jointly agreed to by the military services. The specifications contained numerous mandatory minimum performance thresholds.

In the 1981 tests, no candidate met all the mandatory requirements and the proposed procurement was canceled. Of the four candidate weapons tested, Smith & Wesson's weapon emerged with the highest evaluated score, considering price, technical, and other factors. GAO's March 1982 report on the 9-mm. program

recommended that Defense reexamine the need for replacing .45 caliber pistols due to the cost of the program and its low priority.

The 1984 test results were evaluated on the basis of revised military specifications. The evaluation standards, derived from the revised specifications, were included in the request for test samples issued to industry in late 1983. The request stipulated that failure to meet mandatory test standards would result in a finding of technical unacceptability and a firm's price proposal would not be evaluated if its weapons were found technically unacceptable.

Testing of eight competitors' handguns commenced in February 1984. During the testing, two firms withdrew and one was eliminated on technical grounds. Three of the remaining five were found technically unacceptable by the Army just before price proposals were due to be submitted. I have attached a list of all the manufacturers submitting test pistols for the 1984 tests.

Two firms whose weapons were found technically unacceptable, Heckler & Koch and Smith & Wesson, filed bid protests with us. Heckler & Koch's protest was denied on its merits, while Smith & Wesson's was dismissed when it chose to pursue its remedy in court. Smith & Wesson lost its case in both the Federal District Court and the First Circuit Court of Appeals.

While we found no reason to question the Army's elimination

of other candidates, it is our view that the Army erred in finding the Smith & Wesson weapon technically unacceptable. Army evaluators eliminated Smith & Wesson based on their conclusion that the firm's pistol failed to meet two mandatory test requirements--24 inch ounces of firing pin energy and an expected service life of at least 5,000 rounds.

We think that the Army evaluations of these tests were flawed.

FIRING PIN ENERGY

The firing pin energy requirement was designed to ensure that candidate pistols could fire any 9-mm. cartridge having a primer hardness manufactured to NATO specifications. Those specifications stipulate that when a steel ball weighing 55 grams (about 1.94 ounces) is dropped from a height of 305 mm. (about 12 inches) all primers shall fire.

Our calculations show that the specification requirement was overstated because of a mistake in converting the NATO metric standard into United States units of measurement. The Army rounded off to the nearest whole number and failed Smith & Wesson for missing the required measurement by one-ten thousandth of an inch. With such a miniscule margin of failure, it is clear that the conversion from metric to U.S. measurements was critical and that rounding-off to whole numbers was inappropriate. Smith & Wesson's test pistols would have passed the more precisely

converted firing pin energy requirement. Moreover, the firing pin energy requirement was basically to ensure that a pistol would fire any cartridge made to NATO specifications; and Smith & Wesson pistols performed reliably with regard to various NATO and other cartridges fired, thus demonstrating sufficient firing pin energy.

These aspects of the firing pin energy issue were not considered by either the district or appellate court.

SERVICE LIFE

The Army's rationale for eliminating Smith & Wesson based on demonstrated service life was also flawed:

The request for test samples called for "an expected service life of at least 5,000 rounds." The word "expected" is defined in dictionary terms as average and is used in the same way as the phrase "life expectancy."

The Army told firms that it needed pistols with an average service life of at least 5,000 rounds. The average service life of the three Smith & Wesson pistols tested was at least 6,000 rounds. While not discovered until after 5,000 rounds had been fired, one of three Smith & Wesson pistols cracked at some point between 4,500 and 5,000 rounds. Smith & Wesson was eliminated because each of its weapons did not exhibit a minimum service life of 5,000 rounds.

The Army rationale for its use of minimum service life was

based on the small number of weapons tested (three from each firm) and the desire for a high degree of probability that the selected pistol would actually meet the requirement for an average service life of 5,000 rounds. This application of the test standard was not made known to the competing firms. The decision to test a limited number of weapons was made at a high level and was intended to conserve test resources and expedite the selection process.

The court, in dealing with this issue, held that the Army interpretation was reasonable and did not "materially deviate" from the announced 5,000 round expected service life requirement. In my judgement, the court's view resulted from misunderstanding the Army's statistical calculations.

Smith & Wesson's test results, the Army told the court, indicate that it had a 52 percent probability of having an average 5,000 round service life. According to the Army such a low probability compared to Beretta's 88 percent was unacceptable and justified interpreting expected service life as a minimum 5,000 round criterion.

However, no one explained to the court that because the test results were so close, because so few weapons were tested, and finally, because so few rounds were fired, any probability statement was grossly imprecise. Both Army and GAO statisticians agree that such probability statements cannot properly be used to

differentiate among candidate pistols. The Army inappropriately used such probability statements to justify Smith & Wesson's elimination despite the fact that Smith & Wesson's pistols passed the announced service life criterion.

CONCLUSION AND RECOMMENDATION

The goal of the 9-mm. testing program was not to eliminate all but superior candidates but rather was to identify those whose products met the government's needs. Full and open competition requires that all qualified offerors be allowed to submit price proposals.

Army test data supports a conclusion that Smith & Wesson was a technically acceptable candidate and, therefore, should have been allowed to enter the final phase of the competition--the analysis of price proposals. Since Smith & Wesson met the Army's announced needs, we have to conclude that it was improperly eliminated from the competition. Because Smith & Wesson's price proposal was never evaluated, the Army cannot establish that it obtained the lowest overall price in meeting its needs.

At this point in time, we are unclear what action, if any, is in the government's best interest. The multi-year contract with Beretta is for 315,930 pistols at a total cost of about \$75 million over 5 program years. The Army is currently in the 2nd year of the contract and has already ordered 114,030 pistols. In April 1986, the contract quantity was increased by 4,100 for a

total of 320,030 pistols. The Army also plans to purchase another 124,000 pistols beyond this amount. We understand that as of May 30, 1986, about 7,600 pistols have actually been delivered. The contract contains a cancelation clause with a \$5 million ceiling to cover the eventuality of the Congress not appropriating the necessary funds. Actual cancelation costs depend on the year of cancelation but during the first 3 years they would be at the ceiling. Additionally, there could be termination costs if the government terminates the contract for convenience.

Analysis of all these factors would be required to determine the feasibility, from the standpoint of cost and mission, of reopening the competition and soliciting price proposals from the three technically acceptable offerors--Beretta, SACO, and Smith & Wesson. The Congress may wish to direct the Army to conduct such a feasibility study.

Table I.1
Manufacturers Submitting
Pistols for 1984 Competition

<u>Manufacturer</u>	<u>Model</u>	<u>Comments</u>
Steyr-Daimler-Puch, AG Austria	GB	Terminated by Army on May 4, 1984, for poor reliability.
Fabrique Nationale Herstal, SA, Belgium	BDA	Voluntarily withdrew on May 31, 1984.
Colt Industries, Firearms Division, U.S.A.	SSP	Voluntarily withdrew on July 18, 1984.
Carl Walther Waffenfabrik, West Germany	P88	Terminated by Army on September 18, 1984, for failing drop test, dispersion, corrosion resistance, and adverse conditions requirements.
Heckler & Koch (H&K), West Germany	P7M13	Terminated by Army on September 18, 1984, for failing reliability and corrosion resistance requirements.
Smith & Wesson (S&W) ^a U.S.A.	459M	Terminated by Army on September 18, 1984, for failing service life and firing pin energy requirements.
Schweizerische Industrie Gesellschaft ^b Switzerland	P226	Technically acceptable finalist.
Armi Beretta, SpA. Italy	92SB-F	Technically acceptable finalist and winner.

^aSmith and Wesson was a litigant contesting the Army's determination that its pistols were technically unacceptable.

^bThis company is represented in the United States by SACO Defense Systems Division of the Maremont Corporation, Maine. SACO is a litigant contesting the Army's selection of Beretta.